

TO C. LA RUE MUNSON, ESQ., *President of the Pennsylvania Bar Association*:

The Committee appointed to memorialize the Supreme and Superior Courts with a view to the appointment of a State Board of Law Examiners respectfully report as follows:

1. The Committee were originally appointed under the terms of a resolution adopted by the Bar Association at the meeting of 1900. This resolution, which is printed at p. 159 of the Report of the Association for that year, was as follows:

“Resolved, That it is the sense of this Association that a State Board of Examiners should be created in Pennsylvania, and a uniform standard of examination be established for registration and admission to the Bar; and that a special committee of five members, of which the Chairman of the Committee on Legal Education shall be one, be appointed to bring about this result, first, by memorializing the Supreme Court of Pennsylvania to appoint a State Board before whom all applicants for admission to the Bar of the Supreme Court shall present themselves for preliminary and final examination, and to formulate rules for the government of said Board; and, second, in case legislative action shall seem desirable, then to submit at the next session of the Legislature the bill reported by said sub-committee, or such other bill as shall provide for the establishment of a State Board, and a complete system of registration and admission.”

2. In pursuance of the purposes of their appointment the Committee presented a memorial to the Supreme Court and reported the memorial to the meeting of the Association in 1901. On May 26, 1902, the Supreme Court took favorable action upon the memorial and appointed a State Board of Law Examiners. This action was duly reported to the Bar Association at the meeting of 1902 at which meeting the following resolution was adopted:

“Resolved, That the Committee on Memorialization of the Supreme and Superior Courts *in re* Admissions to the Bar, after action by the Superior Court upon the Memorial, if favorable, be directed to confer with the Committee on Legal Education, and, in conjunction with the latter committee, to take such steps as may

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be deemed advisable or necessary to secure an acceptance by the Courts in the various judicial districts of the admission standard of the Supreme Court as the sole test of the educational qualifications of candidates for admission to the local bars, proof of moral character to be, as heretofore, in accordance with such regulations and requirements as the local courts shall prescribe."

Subsequently, to wit, on November 11, 1902, the Supreme Court promulgated a code of rules for the guidance of the State Board. These rules made provision for preliminary and final examinations for admission to the bar of the Supreme Court. They went into effect January 1, 1903, the Court making an order that members of the bar entitled to admission under existing rules were not to be affected by the new provisions.

4. After the promulgation of the rules they were subjected to minute and careful criticism by Mr. Lucien H. Alexander who prepared a pamphlet in which the rules were contrasted unfavorably with a set of rules which had been drafted for submission to the Court by the Committee. This pamphlet after conference with Mr. Alexander Simpson, Jr., was sent by Mr. Alexander to each member of the Committee on Legal Education accompanied by a form of communication to be sent by such member to the President of the Association in the event of the acceptance of Mr. Alexander's suggestion which was as follows:

"As the best, and probably only means of bringing the matter to a focus, you are respectfully requested as a member of the Committee on Legal Education of the Bar Association (a committee representative of the whole State, having a member thereon from each Judicial District), to sign the enclosed communication to the Hon. C. La Rue Munson, President of the Pennsylvania Bar Association, stating whether or not you are of opinion the President of the Association should ask the Supreme Court to grant a committee appointed by him (small enough in size to be a practical working one, say of seven) a conference or hearing with reference to these new rules, to the end that if the Court is thereby led to believe there are substantial objections to the new rules, they may be suspended until after the Bar Association shall have had an opportunity to express itself at its convention during the last week

in June. If the majority of your committee favor such an application, President Munson, as the official head of the Association, will deem it his duty to act, and it is not too much to hope that it would result in the Supreme Court suspending operations under the new rules until the Bar Association has had an opportunity to consider the subject at its approaching meeting, for the reason that it is undoubtedly the desire of the Court to have the new system of admissions accord with the enlightened views of the profession."

5. In response to Mr. Alexander's communication forty-three members out of the fifty-six members of the Committee on Legal Education sent to the President the communication suggested by Mr. Alexander while six rejected the suggestion and the others made no response. The President of the Association doubted his power to appoint a new Committee without the authority of the Association and accordingly referred the whole matter to this Committee for their consideration.

6. This Committee finds upon investigation that the points which have been specified as defects in the rules promulgated by the Supreme Court are with two exceptions of very little importance. The two important points of difference between the rules which were drafted by the Committee and those which have been officially promulgated are, first, the permission given by the Court to the State Board to appoint, with the approval of the Court, assistants to aid in their work; and, second, the requirement by the Court that the preliminary examination for registration shall be passed by those who hold college degrees as well as by those who do not. The Committee have learned by inquiry that the provisions of the rules of Court on these points were not hastily or improvidently adopted, but were, as might be expected, the result of careful and deliberate consideration. The Committee have the best reason to believe that the Court were unwilling to appoint the State Board at all unless the appointment should be accepted by certain members of the bar selected by the Court whose duties and engagements were such as to make it absolutely impossible for them to

perform their work unaided. The question for consideration, therefore, was not whether the so-called "dual board system" is better than another, but whether a State Board of Examiners with chosen assistants is more likely to effectuate the policy of the Bar Association than if no State Board were to be appointed at all. All of this Committee except Mr. Alexander agree with the State Board in thinking that there can be only one answer to this question. The Committee are also of the opinion that the character and ability of the men selected as assistants to the State Board are such as to relegate the discussion of this problem to the domain of mere theory; for the assistants themselves might safely be entrusted with those responsibilities of decision which, under the rules, are nevertheless imposed solely upon the State Board. The member of this Committee who is also one of the assistants is not, by reason of his joining in this report, to be regarded as concurring in the foregoing comment.

The Committee have learned that the recommendation of the State Board that college graduates should be required to submit to preliminary examinations was influenced chiefly by two considerations: *First*, an unwillingness to discriminate between those in the community who have the financial ability to send their sons to college and those whose ability in this respect is lacking; *second*, a recognition of the impossibility of accepting the degree or diploma of every college and high school as a substitute for examination and a reluctance to discriminate between colleges and high schools that are worthy and those that are not. To have accepted degrees or diplomas would have lightened the labor of the Board; but the Board and the Court have regarded the above considerations as controlling.

7. The Committee learned upon inquiry that the Supreme Court regarded the new rules as having gone into effect and operation on January 1, 1903, and that it was a mistake to assume that the Court intended to suspend the operation of

the rules until a future time. Prior to the reference of this matter to the Committee by the President of the Bar Association the State Board had organized under the rules and had advertised examinations to be held during the month of June and a large number of students were engaged in preparing themselves for these tests. Under these circumstances the Committee were of opinion that an address to the Supreme Court on the lines suggested by Mr. Alexander would do more harm than good. The Court in adopting the innovation suggested by the Bar Association had made a substantial concession to the views of that body and had acted only after mature deliberation and careful consideration. To attempt to re-open the whole matter for the sake of debating two doubtful propositions seemed an act of scant courtesy to the Court. To endeavor to accomplish a postponement of approaching examinations seemed scarcely fair to the students themselves; for the tendency of such a movement would be to introduce an element of uncertainty into the situation which would constitute a grievance of which students might justly complain. Last but not least, it seemed to the Committee that the proposed action might reasonably be expected to give offence to the gentlemen composing the State Board who have given careful, intelligent and wholly disinterested attention to the onerous duties imposed upon them.

8. Having determined that it would be unwise to imperil the cause of uniformity by taking the action suggested, the Committee were of opinion that the only logical course to pursue was to urge the adoption by the Superior Court of rules substantially similar to the Supreme Court rules. The Committee accordingly presented a memorial to the Superior Court. A copy of the memorial is annexed. The Court took favorable action thereon and on May 22, 1903, made the following order:

"Now, May 22, 1903, the rules concerning admission to the Bar are amended as follows:

"*First.*—Any applicant for admission to practice as an attorney at the Bar of this Court who is now (May 22, 1903) in good and

regular standing at the Bar of a Court of Common Pleas of this Commonwealth, and at the date of his application shall have practiced therein for at least two years, and any applicant, who, at the date of his application, shall have been admitted to practice at the Bar of the Supreme Court of this Commonwealth, and is in good and regular standing, may be admitted upon furnishing proof, in the mode practiced under the rules of this Court heretofore in force, of his qualifications as aforesaid and of his good moral character.

"*Second.*—Every applicant for admission, not within the class above described, shall be required to present the certificate of the State Board of Law Examiners, established by the Supreme Court of this Commonwealth, of his eligibility for admission to the Bar of that Court; and any applicant, being a person of good moral character, who shall present the aforesaid certificate shall be eligible for admission to practice as an attorney at the Bar of this Court.

BY THE COURT."

9. The Committee have appreciated the delicacy of the situation with which they have been called upon to deal and have regretted that it did not appear to be feasible to meet the Committee on Legal Education for the purpose of exchanging views. The Committee have assumed that all of the members of the Committee on Legal Education feel themselves bound to support the declaration of the Association in favor of a uniform standard and of a State Board. We believe that for the sake of maintaining the principle involved some sacrifices of individual opinion are inevitable.

Respectfully submitted,

SAMUEL DICKSON, *Chairman*,
S. P. WOLVERTON,
P. C. KNOX,
SAMUEL GUSTINE THOMPSON,
W. U. HENSEL,
ROBT. SNODGRASS,
GEORGE WHARTON PEPPER,
LYMAN D. GILBERT,
WM. SCOTT,
ALEXANDER SIMPSON, JR.

APPENDIX

MEMORIAL TO THE SUPERIOR COURT

"To the Honorable, the Judges of the Superior Court of Pennsylvania:

The undersigned respectfully represent:

That at a meeting of the Pennsylvania Bar Association held at Cambridge Springs, upon June 28, 1900, a resolution was adopted, which is in part as follows:

"That it is the sense of the Association that a State Board of Examiners should be created in Pennsylvania, and a uniform standard of examination be established for registration and admission to the Bar; and that a special committee of five members, of which the Chairman of the Committee on Legal Education shall be one, be appointed to bring about this result, first by memorializing the Supreme Court and Superior Court of Pennsylvania to appoint a State Board before whom all applicants for admission to the Bar of the Supreme and Superior Courts shall present themselves for preliminary and final examination, and to formulate rules for the government of said Board.'"

In pursuance of that resolution the Committee appeared before the Chief Justice and Associate Justices of the Supreme Court, at chambers, upon May 9, 1901, and presented a memorial, which is printed at length in the Seventh Annual Report of the Pennsylvania Bar Association, beginning at page 114. Upon May 26, 1902, the Supreme Court made an order, which is printed in the *Legal Intelligencer* of May 30, 1902, at page 225, and is as follows:

"And now, to wit, May 26, 1902, it is ordered

1. That there is hereby established a Board of Law Examiners to whom all applications for admission to the Bar of this Court, shall be referred for examination and report, before action by the Court.

2. SAMUEL DICKSON, Philadelphia,
WILLIAM SCOTT, Allegheny,
WILLIAM U. HENSEL, Lancaster,
SIMON P. WOLVERTON, Northumberland,
ROBERT SNODGRASS, Dauphin,

are appointed a Board of Examiners, with authority to

report and recommend to the Court for adoption, a plan of operations, including

The term and conditions of studentship.

A course of study for the preliminary and final examinations.

The conditions and requirements of application to the Board.

Rules for the meeting and action of the Board including the appointment of a Secretary, Treasurer, Clerk or Clerks, provision for expenses and compensation, etc.

Such modification of the present rules of court as may be necessary to put the new conditions into operation.

Such further suggestions or recommendations as they may deem desirable at this time.' "

In pursuance of this order, the State Board of Examiners drafted a set of rules which was submitted to the Supreme Court shortly before the opening of the Pittsburg session in October, 1902, and an order was made by that Court promulgating the rules, on November, 1902, to take effect the first Monday of January, 1903. A copy of such rules is submitted herewith.

The undersigned are informed that in order to relieve applicants for admission from hardship or inconvenience, the State Board of Examiners requested the Court to suspend temporarily the enforcement of the rules in reference to the admission of members of the Bars of Courts of Common Pleas who were eligible under the old rules, which was done, but that in compliance with Rule IX, the Board has prepared a paper containing detailed information as to the subjects of preliminary and final examination, of which a copy is enclosed herewith, and has given notice that a preliminary and final examination will begin on Tuesday, June 23, 1903, and that applicants must file their credentials on or before June 2, 1903; and begin advertising not later than the week of May 3, 1903.

Your memorialists further show that Rule IV, prescribing the subjects of the preliminary examination is substantially identical with that recommended by the Committee of the Bar Association, at its meeting of 1897, and which is printed at length in the Third Annual Report of the Association beginning at page 58. It more closely conforms, however, to the rule upon the subject in force in Dauphin County, and is less comprehensive than that which has been adopted by the Board of Judges of the Courts of Common Pleas of Philadelphia County, which provided for an

examination upon all subjects, including Greek, covered by the course of the Central High School.

The subjects prescribed for final examination by Rule VI, correspond substantially to the requirements of the Courts of Philadelphia County.

In the Memorial submitted to the Supreme Court, it was recommended that an examination fee of twenty-five dollars should be required, but the Justices of the Supreme Court thought that the candidates should not pay more than a fee of ten dollars for the preliminary examination, and more than twenty dollars for the final examination, and the rules as adopted so provide.

Upon the day of , the Courts of Common Pleas of Philadelphia County adopted the following rule:

“‘The Board of Examiners for admission to the Bar shall have the right and authority to accept, in lieu of any preliminary or final examination conducted by it, the certificate of the Board of Examiners appointed by the Supreme Court that the applicant has successfully passed a similar examination conducted by, or under the direction of, the latter Board of Examiners.’”

And upon the eleventh day of April, 1903, the Orphans' Court of the same county, adopted the following rule:

“‘And now, April 11, 1903, after due consideration by the Court, it is ordered and decreed that in all cases where, under the existing rules of Court, a preliminary or final examination of applicants for registry as students at law or for admission to the Bar is required, the Examiners appointed by the Court may, in lieu of such examination, accept the certificate of the State Board of Law Examiners that the applicant has passed a satisfactory examination under the requirements of the said State Board, reserving, however, to the Examiners appointed by the Court the duty of inquiring into the regularity of the clerkship and the moral character of each applicant.’”

In view of these facts, the Committee are satisfied that it is of the utmost importance to the cause of legal education in this Commonwealth that the existing system should be put into general operation, with such amendments in matters of detail as experience may from time to time suggest. In particular, it is desirable, in the judgment of the Committee, that your Honorable

Court should take action in this matter, in substantial harmony with the action already taken by the Supreme Court. As arrangements have already been completed for a preliminary and final examination to be held during the month of June, it is highly desirable that students should not be led to omit compliance with the requirements of the rules.

Your memorialists, therefore, recommend your Honorable Court to take early action in the premises in virtual accord with that of the Supreme Court.

All of which is respectfully submitted."

